

FORCIBLE ENTRY AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Marc K. Roberts

Senate Sponsor: Luz Robles

LONG TITLE

General Description:

This bill modifies the Utah Code of Criminal Procedure regarding the use of forcible entry by law enforcement officers when conducting a search or making an arrest.

Highlighted Provisions:

This bill:

▶ amends existing law regarding the use of forcible entry by law enforcement officers to include searches;

▶ requires law enforcement officers to identify themselves before forcing entry into a building;

▶ amends existing law to allow law enforcement officers to force entry into a building without first issuing a demand or explanation if there is probable cause to believe that evidence will be easily or quickly destroyed;

▶ requires law enforcement officers to use the least amount of force necessary when executing forcible entry, as authorized;

▶ requires that any application for a warrant to forcibly enter a place of residence shall:

• explain why law enforcement officials cannot use less invasive or confrontational methods to effectuate the necessary search or arrest;

• explain why the search or arrest cannot be executed during the day, if it is to be executed at night, as defined; and



28 • describe investigative activities that have been or will be undertaken prior to
29 executing the search or arrest to ensure that the correct building has been
30 identified or explain why no investigative activities are needed; and

31 ▶ clarifies that any information or property obtained in violation of these provisions is
32 inadmissible in court.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 **77-7-8**, as last amended by Laws of Utah 2003, Chapter 29



41 *Be it enacted by the Legislature of the state of Utah:*

42 Section 1. Section **77-7-8** is amended to read:

43 **77-7-8. Forcible entry to conduct search or make arrest -- Conditions requiring a**
44 **warrant.**

45 (1) (a) Subject to [~~Subsection~~] Subsections (2) and (3), a peace officer, when
46 conducting a search or making an arrest, may forcibly enter the building:

47 (i) in which the target of a search is reasonably believed to be located; or

48 (ii) where the person to be arrested is, or in which there are reasonable grounds for
49 believing [~~him~~] the person to be.

50 (b) Before making the forcible entry, the officer shall:

51 (i) identify himself or herself as a law enforcement officer; and

52 (ii) demand admission and explain the purpose for which admission is desired.

53 (c) (i) The officer need not give a demand and explanation before making a forcible
54 entry under the exceptions in [~~Section~~] Subsection 77-7-6(1)(a) or where there is [~~reason~~]
55 probable cause to believe evidence will be easily or quickly secreted or destroyed.

56 (ii) The officer shall identify himself or herself and state the purpose of entering the
57 premises as soon as practicable after entering the premises.

58 (d) The officer shall use the least amount of force necessary to effectuate forcible entry

59 under this section.

60 (2) If the building to be entered under Subsection (1) appears to be a private residence
61 or the officer knows the building is a private residence, [~~and~~] if there is no consent to enter [~~or~~
62 ~~there are no exigent circumstances~~], if there are no exceptions present under Subsection
63 77-7-6(1)(a), and if there is no probable cause to believe evidence will be easily or quickly
64 secreted or destroyed, the officer shall, before entering the building:

65 (a) obtain an arrest or search warrant if the building is the residence of the person to be
66 arrested; or

67 (b) obtain a search warrant if the building is a residence, but not the residence of the
68 person whose arrest is sought.

69 (3) A judge or magistrate issuing a warrant pursuant to Subsection (2) shall ensure that
70 the affidavit:

71 (a) explains why law enforcement officers are unable to detain the suspect or search the
72 residence using less invasive or confrontational methods;

73 (b) explains why the warrant cannot be executed during daylight hours, if the warrant is
74 to be executed at night, which is the time between one hour after sunset on one day and one
75 hour before sunrise on the following day; and

76 (c) describes:

77 (i) investigative activities that have been, or will be, undertaken prior to execution of
78 the warrant to ensure that the correct building is identified and that potential harm to innocent
79 third parties, the building, and law enforcement officers may be minimized; or

80 (ii) why no investigative activities are needed.

81 (4) Any information or property obtained in violation of this section is inadmissible in
82 any judicial proceedings.

Legislative Review Note
as of 1-2-14 8:09 AM

Office of Legislative Research and General Counsel